

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Reclassification of License of)	
Class A Television Station KXTM-LP)	Facility ID No. 33818
San Antonio, Texas)	
)	

ORDER

Adopted: April 25, 2012

Released: April 27, 2012

By the Chief, Video Division, Media Bureau:

1. This is with respect to station KXTM-LP, San Antonio, Texas, which was licensed to Humberto Lopez until his death in May 2011.¹ This station is currently licensed as a Class A television station, which are accorded primary spectrum use status pursuant to the Community Broadcasters Protection Act of 1999 (“CBPA”).²

2. By letters dated March 25, 2011 and August 3, 2011, the Video Division of the Media Bureau requested information from Lopez regarding his apparent failure to make the required filing of quarterly FCC Form 398 (Children’s Television Programming Report) for all four quarters of 2006, 2007, 2008, 2009 and 2010.³ Both letters required that the information be provided within 30 days of the date of the letter, and cautioned that failure to provide the information could result in a change of the station’s status from Class A television to low power television. Lopez failed to respond to the Division’s letters or to file the required Children’s Television Programming Reports. Accordingly, pursuant to Section 316(a) of the Communications Act of 1934, as amended,⁴ the Video Division issued an *Order to Show Cause* why the license for KXTM-LP should not be modified to specify the station as a low power television station.⁵

¹ There is presently pending an application for involuntary assignment of the license to Carlos Lopez, Executor of the Estate of Humberto L. Lopez (FCC File No. BALTTA-20111107AFD). For purposes of this *Order*, we will continue to refer to the Licensee as “Lopez.”

² Community Broadcasters Protection Act of 1999, Pub. L. No. 106-113, 113 Stat. Appendix I at pp. 1501A-594 – 1501A-598 (1999), *codified at* 47 U.S.C. § 336. Beginning on the date of its application for Class A license and thereafter, the CBPA requires that a station must be “in compliance with the Commission’s operating rules for full-power television stations.” 47 U.S.C. § 336(f)(2)(A)(ii); *see also In the Matter of Establishment of a Class A Television Service*, MM Docket No. 00-10, Report and Order, 15 FCC Rcd 6355, 6366 (2000), Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd 8244, 8254-56 (2001); 47 C.F.R. §§ 73.6001, 73.6026. KXTM-LP was granted Class A status in 2001.

³ *See* 47 C.F.R. §§ 73.671, 73.3526 and 73.6026.

⁴ 47 U.S.C. § 316(a).

⁵ *Reclassification of License of Class A Television Station KXTM-LP, San Antonio, Texas*, Order to Show Cause, DA 12-284 (Vid. Div. rel. Feb. 28, 2012). In addition to the period covering 2006 through 2010, the *Order to Show Cause* noted that Lopez had also failed to file Children’s Television Programming Reports for all four quarters of 2011.

3. Lopez was afforded until March 30, 2012, to file a written statement why his license should not be so modified, and was also notified that if no written statement was filed by that date, he would be deemed to have consented to the modification of the KXTM-LP license from Class A television status to low power television status. Lopez did not file a written statement in response to the *Order to Show Cause*, and, therefore, we deem him to have accepted the modification of the KXTM-LP license to low power television status.⁶ Further, because Lopez has failed to file Children's Television Programming Reports (FCC Form 398) for the period 2006 through 2011 and has not responded to the Video Division's two letters regarding this failure or to the *Order to Show Cause*, we find that Lopez has not fulfilled his obligations as a Class A licensee and that the modification of his Class A license to a low power television license therefore serves the public interest.

4. IT IS THEREFORE ORDERED, pursuant to Sections 4(i), 316, and 332(f)(2)(A)(ii) of the Communications Act, 47 U.S.C. §§ 154(i), 316, 332(f)(2)(A)(ii), and Sections 1.87, 73.6001, and 73.6026 of the Commission's rules, 47 C.F.R. §§ 1.87, 73.6001, 73.6026, that the license for station KXTM-LP, San Antonio, Texas is modified from Class A television status to low power television status, effective as of this date.

5. IT IS FURTHER ORDERED, That a copy of this *Order* shall be sent by Certified Mail, Return Receipt Requested, to Humberto Lopez, Deceased, his attorney, and Carlos Lopez, Executor of the Estate of Humberto L. Lopez, as indicated below:

Humberto Lopez, Deceased
115 West Avenue D
Robstown, Texas 78380

Donald Martin, Esq.
P. O. Box 8433
Falls Church, Virginia 22041

Carlos Lopez, Executor of the Estate of Humberto L. Lopez
514 Greenway Drive
Corpus Christi, Texas 78412

6. This action is taken pursuant to authority delegated by Sections 0.61 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.61, 0.283.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

⁶ 47 C.F.R. § 1.87(g)(1), (h) (Absent good cause shown, the right to file a protest or have a hearing is waived if licensee does not file a timely protest or statement of intent to appear at a hearing, and "[w]here the right to file a protest or have a hearing is waived, the licensee . . . will be deemed to have consented to the modification as proposed and a final decision may be issued by the Commission accordingly.")